

**REMARKS**

**Summary Of The Office Action & Formalities**

Claims 1-28 are all the claims pending in the application. By this Amendment, Applicant is amending claims 1, 9, and 17. No new matter is added.

Claims 9 and 10 are rejected under 35 U.S.C. § 112, second paragraph, for the reason set forth at page 2 of the Office Action. Applicant is amending claim 9 to overcome this rejection.

Claims 1-28 are rejected under 35 U.S.C. § 102(e) as being anticipated by Bommer et al. (USP 5,927,559).

Applicant respectfully traverses.

**Claim Rejections - 35 U.S.C. § 102**

*1. Claims 1-28 In View Of Bommer et al. (USP 5,927,559).*

In rejecting claims 1-28 in view of Bommer et al. (USP 5,927,559), the grounds of rejection state:

Bommer et al. shows a pump 2; body 7, 8; piston 17; fixing ring 6; reservoir 3; sealing gasket 22, 23; air intake passage/through bore/vent hole 33 that is always open; filtration element 21 that forms part of an air passage between top edge 9 and fixing ring 6; ferrule 7; top edge 9; and air passage 34 formed by flange/groove in the ferrule, the passage is cut off when the dispenser is in the rest position as seen in Figure 2.

Office Action at page 3.

In response to Applicant's arguments filed on June 10, 2004, the grounds of rejection further state:

Applicant's arguments filed June 10, 2004 have been fully considered but they are not persuasive. Applicant contends that the top edge of the shell doesn't contribute to house the filter unit in Bommer et al. However, the claims only require that the filtration unit be disposed between the top edge and the fixing ring. As clearly seen in the Figures the filtration unit 21 is disposed between top edge 9 and fixing ring 6; thereby meeting the claimed invention.

Office Action at page 3. Applicant respectfully disagrees.

Present claim 1 covers a fluid dispenser pump comprising a pump body in which a piston is slidingly and sealingly mounted. This pump body defines a top edge which is fixed to a reservoir in part by a fixing ring. A filtration element is provided in an intake air passageway and is disposed between the top edge of the pump body and the fixing ring.

Bommer et al. (USP 5,927,559) discloses a pump 2 comprising a shell 7. A piston 17 is slidingly guided in this shell 7. As clearly illustrated in Figs. 1 and 2, and contrary to the statement made in the grounds of rejection, the filter unit 20 is provided and is disposed between the top edge of the neck of the reservoir and the bottom edge 9 of a closure 8 fixed to the pump body. The bottom edge 9 is fixed to the reservoir through a fixing ring 6. Therefore, even if the flange 9 were considered part of the pump body, the filter would be between the bottom of this flange and the neck of the reservoir.

As such, one skilled in the art would not consider the alleged filter unit as being located between the top edge of the pump body and the fixing ring. In the claimed invention, it is clear that the filter unit is located above the top edge of the pump body.

The positioning of the filtration unit as required in claim 1 contributes to the simplification of the fluid product dispensing device. Such a filtration unit can be used in a standard device without modifying any component part of the device.

In order to further clarify this feature, which is believed to be a requirement of claim 1 in its un-amended form,<sup>1</sup> Applicant is adding the language that the filtration element is disposed above the top edge of the pump body, as also clearly seen in all the drawings of the present application.

Therefore, claim 1 is clearly not taught or even suggested by Bommer et al. Indeed, the filtration element according to Bommer et al. can not be positioned above the bottom edge 9 of the closure 8 because the specification of Bommer et al. specifies that the filtration unit is directly supported by the reservoir unit (*see* column 2, lines 5 to 10). Therefore, Bommer et al. would even teach away from Applicant's invention.

In view of the foregoing differences, Applicant respectfully requests the Examiner to reconsider and withdraw the rejection of claim 1 and its dependent claims. For similar reasons, Applicant respectfully requests the Examiner to reconsider and withdraw the rejection of claim 17 and its dependent claims.

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the

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<sup>1</sup> Accordingly, Applicant submits that even without entry of this Amendment, the claims are allowable for the reasons stated herein.

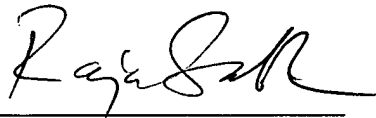
AMENDMENT UNDER 37 C.F.R. § 1.116  
U.S. Application No. 10/070,641

Attorney Docket No.: Q68640

Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,



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